

Before the Board of Zoning Adjustment, D.C.

PUBLIC HEARING - November 22, 1967

Appeal No. 9406 Mensh Investment & Development Associates et al, appellants.

The Zoning Administrator of the District of Columbia, appellee.

On motion duly made, seconded, and carried with Messrs. Harps, and Davis dissenting, the following Order was entered at the meeting of the Board on November 30, 1967.

ORDERED:

That the appeal for variance from the use provisions of the R-5-C District to permit continuation of three doctors' offices on first floor at 1629 and 1669 Columbia Road, N.W., lots 469, 474, 476 and 800, Sq. 2589, be denied.

FINDINGS OF FACT:

1. The subject property is located in an R-5-C District.
2. The property is improved with a large apartment building with doctors' offices located on the first floor. It is proposed that the offices be permitted to remain at their present location.
3. The offices have been located on the site for a number of years and at least one of the doctors resided on the premises at one time. None of the doctors now reside on the premises.
4. Section 3101.5 provides for accessory uses on residentially zoned property if such uses are incidental to permitted uses. Further, Section 3101.52 permits residential property to be used, with certain restrictions, as an "office of a physician or dentist residing on the premises."
5. The record contains approximately 20 odd letters favoring the granting of this appeal. No opposition to the granting of this appeal was registered at the public hearing.

OPINION:

We are of the opinion that this appeal must be denied.

In order to grant a variance from the use provisions of the regulations, we must find some extraordinary or exceptional situation relating to the land which would prevent the use of the property for its zoned purpose without unusual or undue hardship upon the owner. There is no doubt that the subject property can be used within the terms of the zoning regulations. The question of uses within a particular zoning district is within the province of the Zoning Commission and should not be determined by this Board. Here, the statute is clear and relief, if any, must come by way of change to the existing

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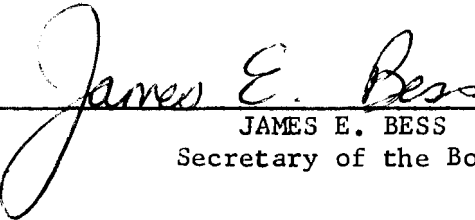
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regulations. Such relief is beyond our jurisdiction. Therefore, the appeal for variance from the use provisions must be denied.

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED:

By:



JAMES E. BESS
Secretary of the Board